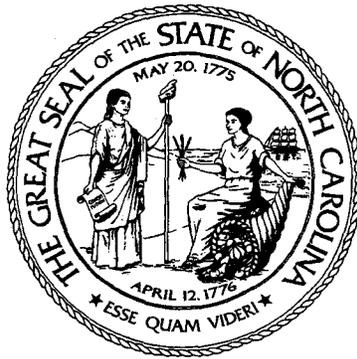


LEGISLATIVE RESEARCH COMMISSION

CONSUMER PROTECTION ISSUES



REPORT TO THE
1995 GENERAL ASSEMBLY
OF NORTH CAROLINA
1996 REGULAR SESSION

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



May 13, 1995

TO THE MEMBERS OF THE 1995 GENERAL ASSEMBLY (REGULAR SESSION 1996):

The Legislative Research Commission herewith submits to you for your consideration its INTERIM report on Consumer Protection Issues. The report was prepared by the Legislative Research Commission's Committee on Consumer Protection Issues pursuant to G.S. 120-30.17(1).

Respectfully submitted,

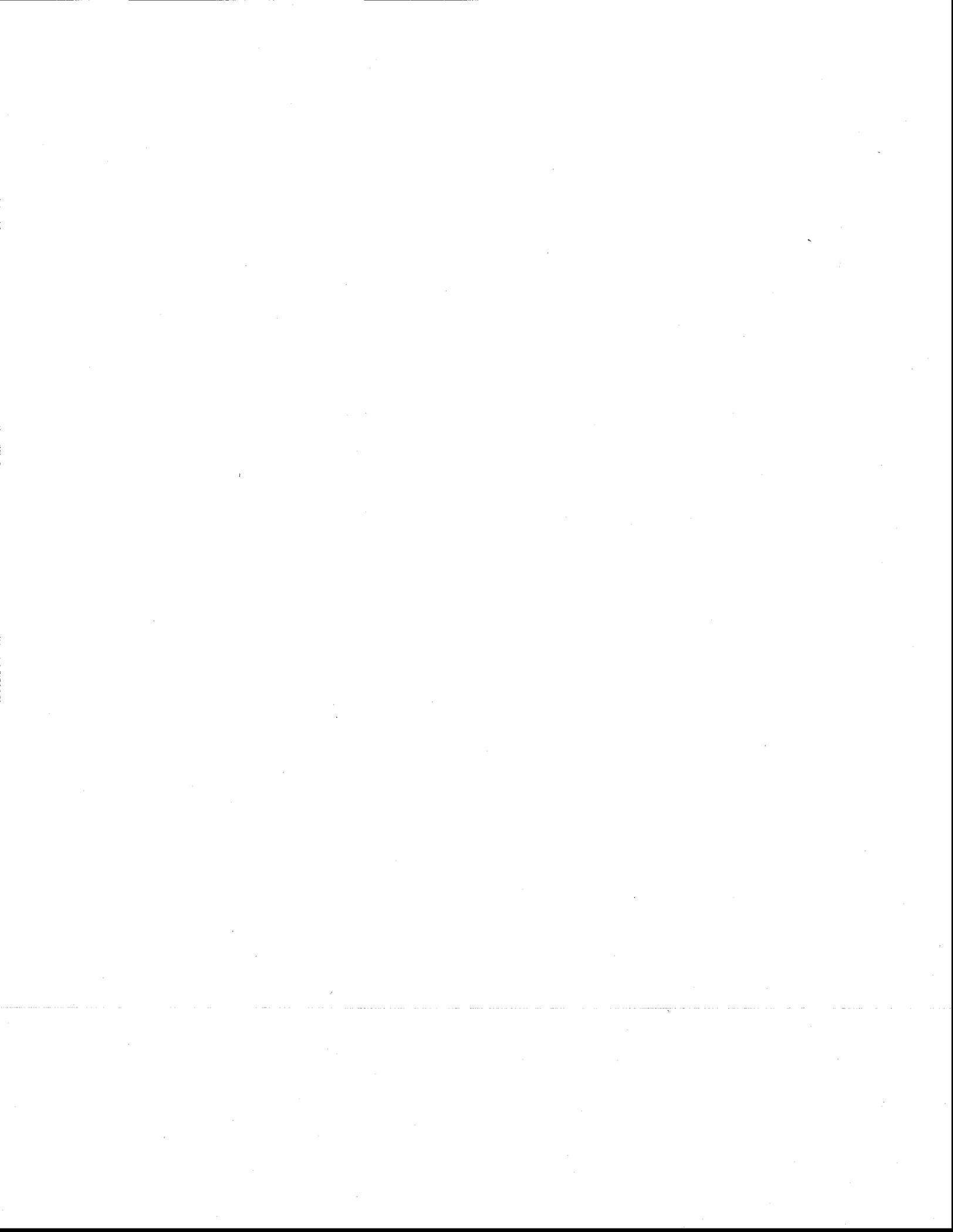
A handwritten signature in cursive script, appearing to read "Harold V. Brubaker".

Harold V. Brubaker
Speaker of the House

A handwritten signature in cursive script, appearing to read "Marc Basnight".

Marc Basnight
President Pro Tempore

Cochair
Legislative Research Commission



1995-96

LEGISLATIVE RESEARCH COMMISSION

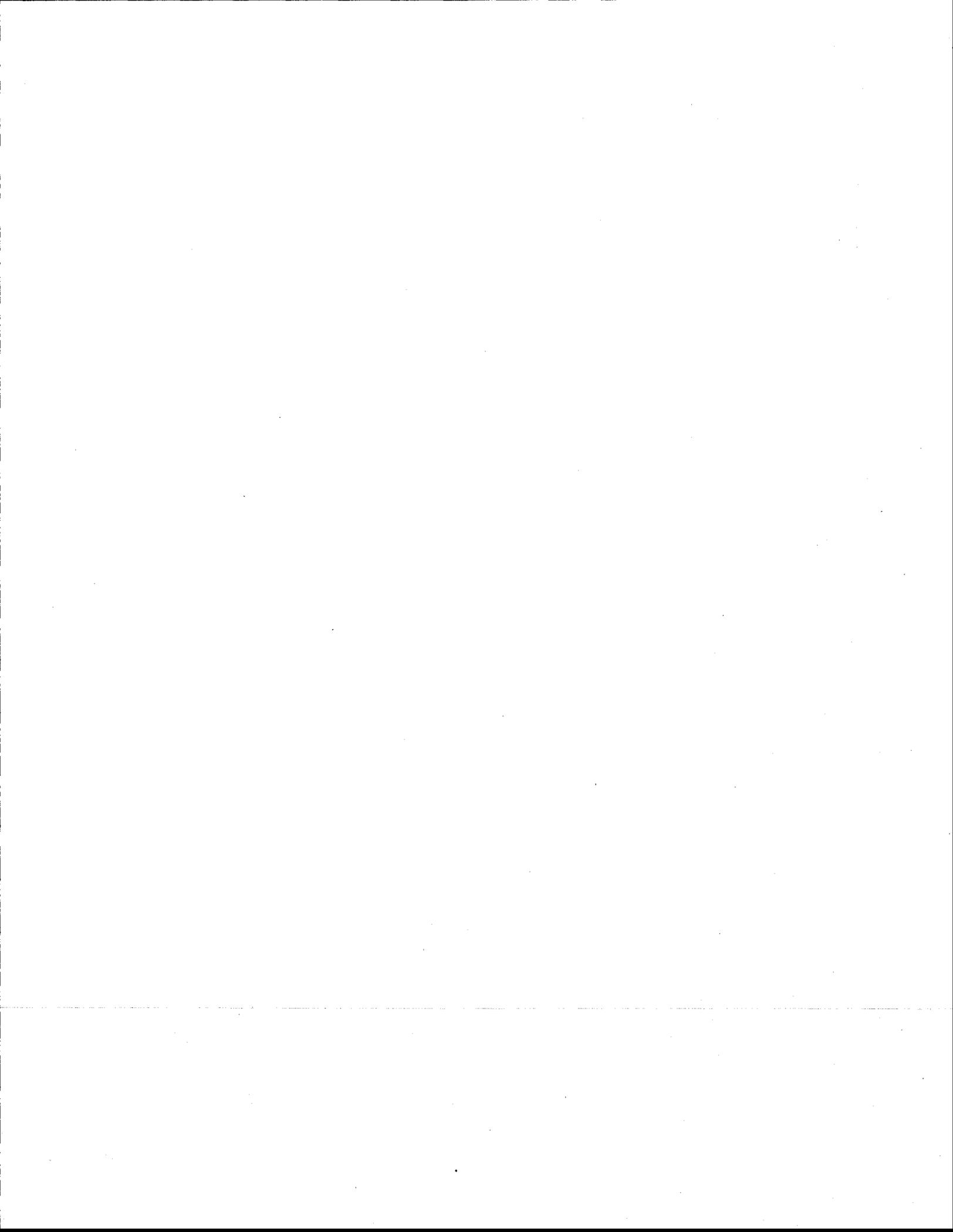
MEMBERSHIP

President Pro Tempore of the Senate
Marc Basnight, Cochair

Speaker of the House of Representatives
Harold J. Brubaker, Cochair

Senator Frank W. Ballance, Jr.
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Senator R. L. Martin
Senator J. K. Sherron, Jr.
Senator Ed N. Warren

Rep. Jerry C. Dockham
Rep. Larry Linney
Rep. Edd Nye
Rep. Gregg Thompson
Rep. Constance K. Wilson



PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission, prompted by actions during the 1995 Session, has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of Consumer Protection Issues was authorized by Section 2.1(5) of Part II of Chapter 542 of the 1995 Session Laws. Part II of Chapter 542 allows for studies authorized by that Part for the Legislative Research Commission to consider House Bill 196 and Senate Bill 59 in determining the nature, scope and aspects of the study. The relevant portions of Chapter 542 may be found in Appendix A. The Legislative Research

Commission authorized this study under authority of G.S. 120-30.17(1) and grouped this study in its Civil and Criminal Law Grouping area under the direction of **Senator Frank Ballance**. The Committee was chaired by Senator **Luther H. Jordan, Jr.** and Representative **Gregg Thompson**. The full membership of the Committee is listed in Appendix D of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.

INTRODUCTION

The 1995 General Assembly ratified House Bill 898 (Chapter 542, 1995 Session Laws), an act authorizing certain studies to be conducted by the Legislative Research Commission (**Appendix A.**) Among the study topics authorized was that of consumer protection, and included within that topic was authorization for the LRC to consider three bills, Senate Bill 59 and House Bill 196, pertaining to consumer protection, and Senate Bill 861, pertaining to the rights of owners of rental property.

COMMITTEE PROCEEDINGS

The LRC Study Committee on Consumer Protection Issues met on January 18, February 16, and March 11 of 1996. At these meetings the Committee heard presentations on the following :

- (1) Review and status of Senate Bill 723, the Telephone Consumer Protection Act, a bill eligible for consideration in the short session.
- (2) Proposal that unvented gas heaters be permitted to be installed in manufactured homes.
- (3) Problems that certain rental property owners have with regard to acts of vandalism against their property.

(4) Proposal to amend the preneed funeral funds law to permit certain investments of preneed funeral contract funds.

The Committee was interested in obtaining more information on two of the topics presented for their consideration. Following is a summary of those two topics and the committee's recommendations.

Unvented Gas Heaters

The Committee heard a presentation from a representative of New Buck Corporation, a North Carolina manufacturer of gas heating appliances. New Buck informed the Committee that a ruling by the North Carolina Department of Insurance prohibited the installation of unvented gas heating appliances in manufactured homes. Although the Department had not adopted a rule under the State Building Code or under the Manufactured Housing Code prohibiting this installation, the Department based its ruling (**Appendix B1**) on a regulation of the United States Department of Housing and Urban Development that requires heating appliances installed in newly constructed manufactured housing to be of the vented type, 24 CFR 3280.707(a)(2)(b). Although the HUD ruling does not apply to manufactured housing sold in the after-market, the Department elected to

apply the HUD restriction to the Department's manufactured housing requirements.

The Committee learned that several other states, among them Alabama, Florida and Georgia, (**Appendix B2**) permit the installation of unvented gas heaters in manufactured homes when those heaters meet certain AGA (American Gas Association) certification requirements for the installation. The unvented gas heaters manufactured by New Buck Corporation are certified by the AGA for installation in manufactured homes (**Appendix B3**) and this certification is based in large part upon the heater's high efficiency rating and on a safety feature installed on the heaters. This safety feature senses oxygen depletion and turns off the gas supply, thus turning off the heater when the oxygen in the room drops to a certain level. The sensor is calibrated to detect oxygen depletion well before it reaches unacceptable levels.

During its discussions on this issue, the Committee expressed the following concerns:

- (1) Why are unvented gas heaters permitted to be installed in stick built homes but not in manufactured homes.

(2) Given recent advances in technology and improvements in manufactured home construction that render unvented gas heaters safe for installation in manufactured homes, has the Department of Insurance or the Department of HUD reconsidered their respective positions on the installation of unvented gas heaters in manufactured homes.

(3) Unvented heaters are apparently being installed by some owners of manufactured homes in North Carolina. Also, there are apparently businesses in some counties that are willing to install the heaters, whereas other businesses are refusing to install them because of the Department's ruling. Would it not be better for consumers if there was a uniform statewide approach to regulating the installation of unvented gas heaters in manufactured homes.

The Committee wrote to the Department of Insurance and to the Department of HUD raising these concerns and asking if there are plans to reconsider their respective positions. **(Appendix B4.)**

The Department of HUD responded that at this time it is not considering changing its regulation pertaining to heating devices in newly constructed manufactured homes, and it included the reasons therefor.

HUD also pointed out in its letter that it had no authority to regulate manufactured homes in the aftermarket. (**Appendix B5.**)

The Department of Insurance agreed to review its ruling in light of information about the improved safety of unvented gas heaters, the certification of these heaters by the American Gas Association for use in manufactured homes, and considering that other states permit these appliances to be used in manufactured homes under certain conditions. The Department reported to the Committee that it had reconsidered and decided to permit unvented gas heaters to be used in the manufactured housing aftermarket in accordance with the following:

- (1) Requirements pertaining to the installation of unvented gas heaters would be added to the North Carolina Manufactured Housing Code.
- (2) Unvented gas heaters would not be permitted to be installed in bedrooms and bathrooms of manufactured homes.
- (3) Unvented gas heaters must be listed and labeled for installation in manufactured homes.

- (4) Unvented gas heaters must be installed in manufactured homes in accordance with their listing and the manufacturer's installation instructions, and
- (5) Unvented gas heaters installed in manufactured homes must be sized based upon the heat loss of the space to be heated.

A copy of the Department's revised ruling is attached as **Appendix B6** to this report.

The Committee remains concerned about ensuring that these heaters are installed properly, and will continue to study what legislation or regulation, if any, should be proposed in its final report to ensure that consumers are aware of the importance that these heating devices be installed correctly.

Preneed Funeral Contract Funds.

A representative of the North Carolina Funeral Directors Association requested the Committee to consider supporting a proposal concerning preneed funeral funds that was contained in Senate Bill 593. (**Appendix C1.**) A summary of this proposal follows:

Under current law, funds collected by a preneed funeral establishment licensee pursuant to a **revocable** preneed funeral contract may be

withdrawn from the trust account by the preneed licensee (who, under law, is the trustee of the account) with the written consent of the contract purchaser, and used to purchase a prearrangement insurance policy the proceeds of which would be used to fund performance of the preneed funeral contract. The proposal would allow this same action by the preneed licensee under an **irrevocable** preneed funeral contract. Senate Bill 593, Version 1, as amended on the Senate floor, would allow this action under the following conditions:

- (1) The preneed licensee must obtain the written consent of the contract purchaser;
- (2) The coverage under the prearrangement insurance policy must be equal to or greater than the amount of the funds transferred to purchase the policy;
- (3) Within 30 days of the transfer the preneed licensee must provide proof of purchase of the policy to the contract purchaser and to the Board of Mortuary Science, and must also provide the name and address of the company that issued the policy;
- (4) The policy must be a single-premium policy; and

- (5) The Board of Mortuary Science and the Commissioner of Insurance must adopt guidelines to ensure that consumers of preneed funeral contracts are properly informed and protected.

The bill was amended on the Senate floor to add a fee to be paid to the Board of Mortuary Science. The bill was then referred to the Senate Finance committee but the session ended before the bill could be considered by the Finance committee. The North Carolina Funeral Directors Association is proposing a committee substitute to S593, V1, that would add three conditions to those contained in S593, V1, as amended:

- (1) Any amount lawfully retained by the preneed licensee in collecting funds from the contract purchaser would be applied to transferred funds as paid premiums against the prearrangement policy.
- (2) If at the time of the death of the contract purchaser the policy proceeds are greater than the cost to fully perform the contract, then the difference must be refunded to the purchaser's estate or other named beneficiary, and
- (3) In no event may a preneed licensee keep the excess funds.

(Appendix C2.)

The Committee was asked to consider recommending legislation to the short session that would rewrite S593, V1, as amended, to incorporate the additional conditions contained in the proposed committee substitute.

Prior to its discussion of the proposal, the Committee heard a review of the current preneed funeral contract law and the consumer protection provisions that were added to it when it was rewritten and recodified in 1969. One of the concerns expressed by the Committee during its discussion was that the consumer information and protection guidelines developed by the Commissioner of Insurance and the Board of Mortuary Science be adopted at the time the legislation becomes effective. The purpose of this is to ensure that when the purchaser of an irrevocable preneed contract that is already in effect is offered the opportunity to fund the contract with a prearrangement policy, the purchaser will have the benefit of the guidelines to help in making the decision.

FINDINGS AND RECOMMENDATIONS

Finding One:

The Committee finds that the proposal to authorize the investment of irrevocable preneed funeral contract funds offers a reasonable choice to

consumers of these contracts provided that the safeguards and conditions contained in the legislative proposal in **Appendix C3** of this report are included in such legislative authorization.

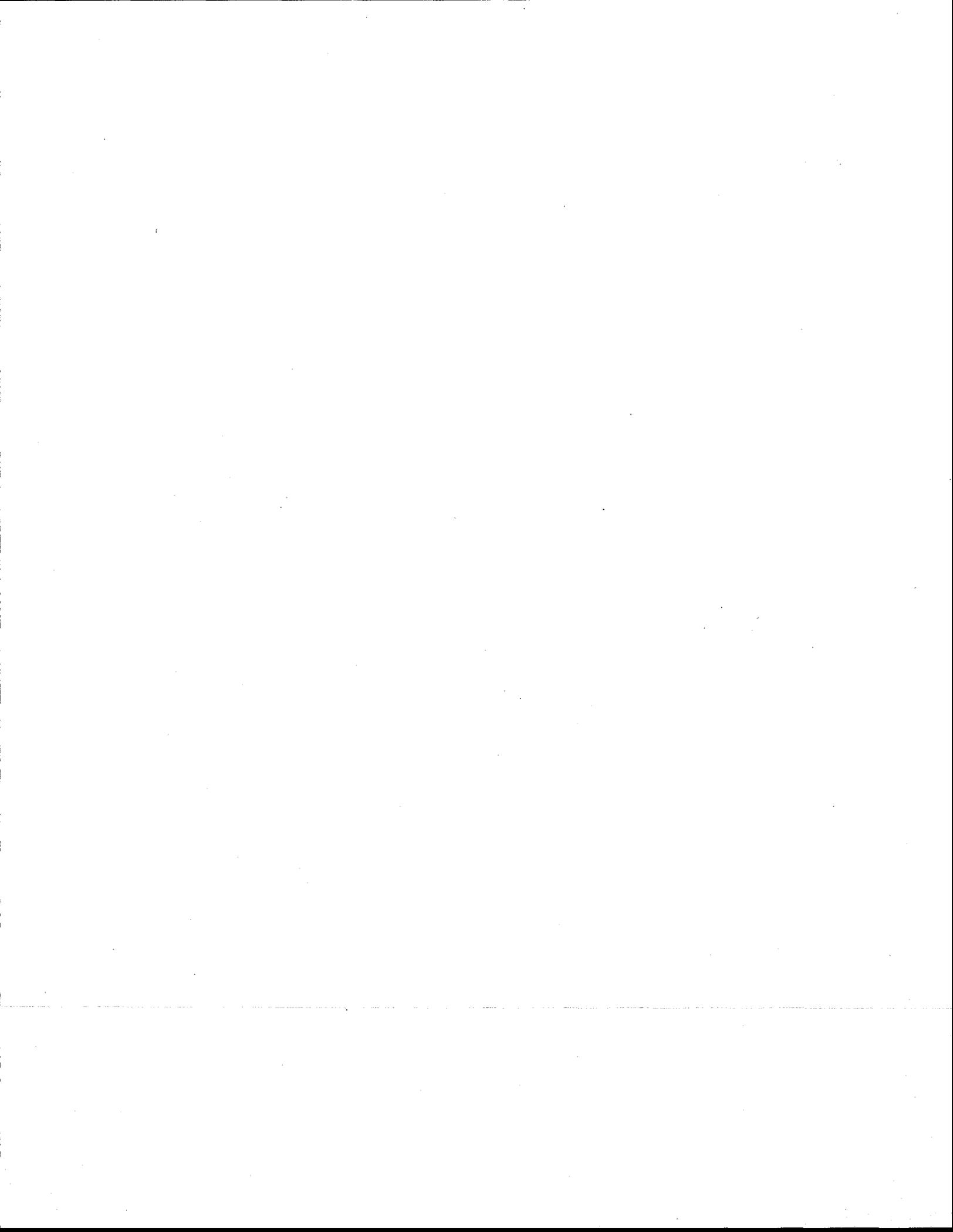
Recommendation One:

The Committee recommends that the 1995 General Assembly enact the legislation found in **Appendix C3** of this report, entitled "AN ACT TO AUTHORIZE ALTERNATIVE INVESTMENTS OF IRREVOCABLE PRENEED FUNERAL CONTRACT FUNDS."

CONCLUSION

The Committee will resume its study of consumer protection issues after adjournment sine die of the 1995 legislative session and will submit its final report to the Legislative Research Commission on or before January 3, 1997.

APPENDICES



Studies Bill

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION
RATIFIED BILL

CHAPTER 542
HOUSE BILL 898

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMISSIONS, TO DIRECT STATE AGENCIES AND LEGISLATIVE OVERSIGHT COMMITTEES AND COMMISSIONS TO STUDY SPECIFIED ISSUES, TO MAKE VARIOUS STATUTORY CHANGES, AND TO MAKE TECHNICAL CORRECTIONS TO CHAPTER 507 OF THE 1995 SESSION LAWS.

The General Assembly of North Carolina enacts:

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1995".

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Sec. 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the 1995 bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The topics are:

- (1) Atlantic States Marine Fisheries Compact withdrawal (H.B. 948 - Preston)
- (2) Bad check fees (S.B. 876 - Ballance)
- (3) Chiropractic care (S.J.R. 228 - Odom, Soles)
- (4) Consolidation of regulatory agencies of financial institutions (H.B. 839 - Tallent)
- (5) Consumer protection issues:
 - a. Consumer protection (S.B. 59 - Jordan; H.B. 196 - Thompson)
 - b. Rental property rights (S.B. 861 - Perdue)
- (6) Domiciliary care and nursing homes (H.B. 685, H.B. 745 - Clary)
- (7) Education issues:
 - a. Education improvement (State grants and loans for community college tuition and fees, H.B. 42 - Warner)
 - b. School building disposition (S.B. 60 - Jordan, Edwards; H.B. 78 - Wainwright)
 - c. School funding (S.B. 1088 - Winner, Plexico)
 - d. Ability grouping and tracking of students (S.B. 1004 - Martin, W.; H.B. 1051 - Cunningham)
 - e. Teacher tenure, performance evaluation, and incentives (H.B. 210 - Arnold)

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- f. Choice in education (Shubert, Linney, Miller, K., Wood), including tuition tax credits (H.B. 954 - Wood)
- (8) Election laws reform (S.B. 982 - Plexico; H.B. 922 - Cansler; H.B. 858 - Miner)
- (9) Emergency medical services (S.J.R. 1045 - Speed)
- (10) Energy conservation (S.J.R. 461 - Edwards; H.J.R. 275 - Brawley)
- (11) Grandparent visitation rights (S.B. 841 - Forrester, Kerr, and Carpenter; H.J.R. 872 - Mitchell)
- (12) Illegitimacy, its prevention, and related child support and welfare benefits issues (Basnight)
- (13) Insurance and insurance-related issues:
 - a. Coastal insurance availability and affordability (S.J.R. 881 - Soles, Parnell)
 - b. Long-term care insurance (S.B. 102 - Parnell; H.B. 98 - Edwards)
 - c. Statewide flexible benefits program and third-party administrator contracts (Executive Order 66)
- (14) Juvenile and family law (S.J.R. 381 - Cooper, Allran, Winner; H.J.R. 251 - Hensley, Rogers, Russell; H.J.R. 274 - Hackney)
- (15) Lien laws (S.B. 434 - Hartsell, Soles, and Cooper)
- (16) Mold Lien Act (H.B. 617 - McMahan)
- (17) Occupational and professional regulation:
 - a. Fire Alarm Installers (Capps)
 - b. Forester licensing (Weatherly)
 - c. Qualified environmental professionals (H.B. 880 - Wood)
 - d. Psychology Practice Act (H.B. 452 - Lemmond)
- (18) Property issues.
 - a. Property rights (H.B. 597 - Nichols)
 - b. Extraterritorial jurisdiction representation (H.J.R. 73 - Ellis)
 - c. Annexation laws (H.B. 660 - Pulley; H.B. 539 - Sherrill)
 - d. Condemnation by government entities, including the condemnation process, fair market value for property, payment of condemnees' attorneys' fees and court costs, and related matters (Allred)
- (19) Revenue and tax issues:
 - a. Revenue laws (H.B. 246 - Gamble)
 - b. Interstate Tax Agreements (S.J.R. 122 - Webster)
 - c. Tax expenditures (H.J.R. 95 - Gamble, Luebke)
 - d. Nonprofit continuing care facilities property tax exemption (S.B. 980 - Plexico and Sherron)
 - e. Diesel Fuel Payment method (S.B. 797 - Hoyle; H. B. 975 - Barbee)
 - f. Taxation of business inventory donated to nonprofit organization (McMahan)
- (20) State Personnel Issues, including needed revisions to the State Personnel Act (Morgan)
- (21) State purchasing and Correction Enterprises (S.B. 420 - Kerr, Sherron; H.B. 302 - Warner)
- (22) Water issues:
 - a. Water issues (S.B. 95 - Albertson; H.B. 46 - Ives)
 - b. Drinking water tests (H.B. 930 - Allred)
 - c. Water conservation measures to reduce consumption (Sherron)

Sec. 2.2. Executive Budget Act Revision (Morgan, Holmes, Gray). The Legislative Research Commission may study the Executive Budget Act and the budget process. The study may consider this State's and other states' laws and policies on the budget process and any other matters it considers necessary in order to recommend a complete revision of the Executive Budget Act and its policies. A study of these revisions shall specifically address the constitutional requirement of separation of powers as it relates to proposing, enacting, and executing a State budget and as it relates to the gubernatorial veto.

Sec. 2.3. Criminal Laws and Procedures; Sentencing (Neely, Odom, and Ballance). The Legislative Research Commission may study criminal laws and procedures, including criminal offenses, criminal penalties, criminal process and procedure, sentencing, and related matters.

Sec. 2.4. Downtown Revitalization (Brawley and Sherron). The Legislative Research Commission may study ways to encourage the development and use of downtown area structures. The use of these structures may include both commercial and residential uses in the same structure. To encourage the development of downtown area structures, the Legislative Research Commission study should evaluate the usefulness and cost-effectiveness of providing the following State and local incentives:

- (1) Income tax credits.
- (2) Reduced property tax liability through the use of exemptions, deferrals, or lower values.
- (3) Zoning law modifications.
- (4) Building code modifications.

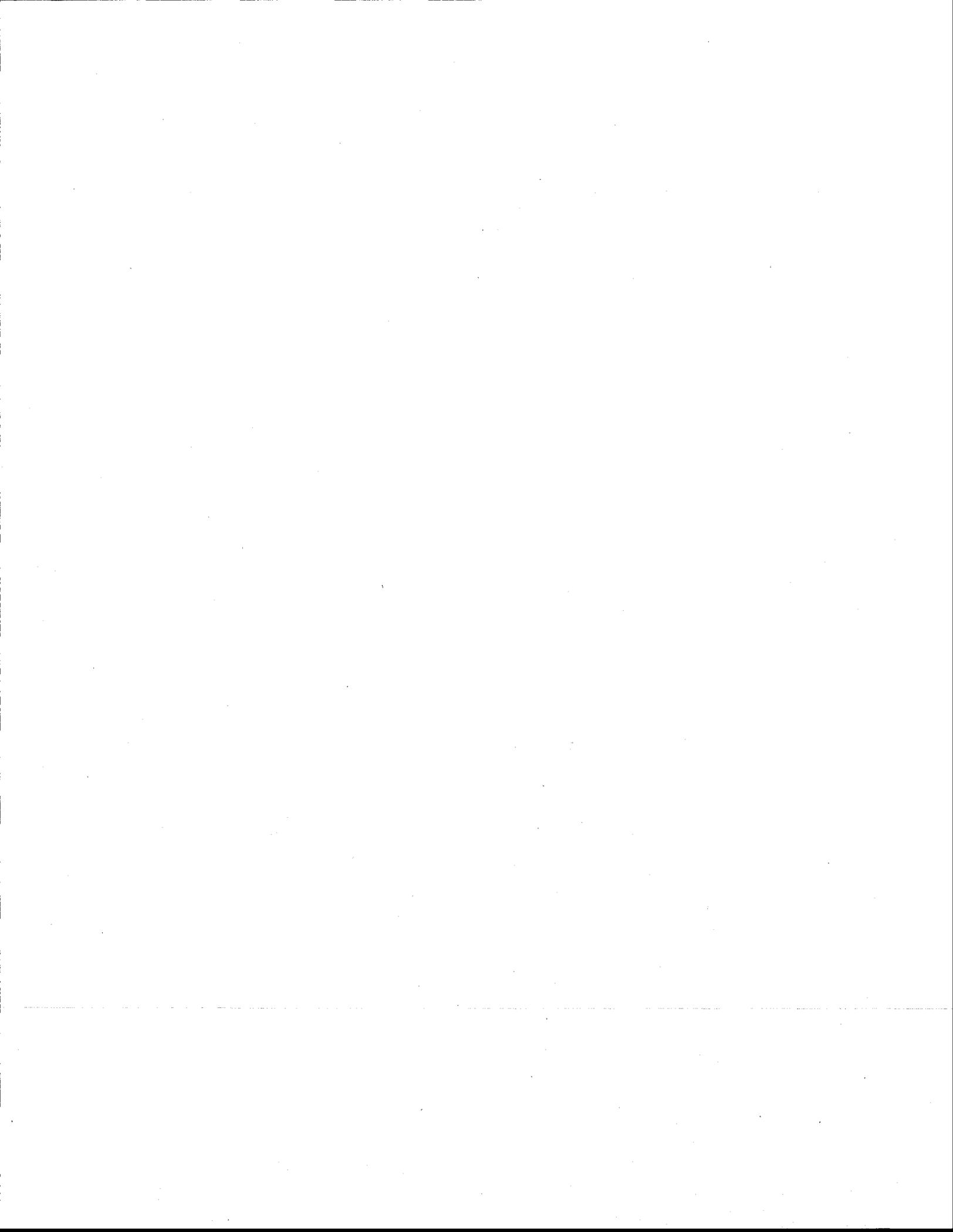
Sec. 2.5. State and Federal Retirees (Rand, Perdue, Warren, Edwards, Grady, Morgan, Gray). The Legislative Research Commission may study North Carolina's tax treatment of the retirement benefits of State and federal government retirees residing in North Carolina, the potential need to make changes in the revenue laws of North Carolina relative to such benefits, and recommendations by which any alleged unconstitutional or inequitable tax treatment of retirement benefits might be redressed.

Sec. 2.6. Cape Fear River Basin (Shaw). The Legislative Research Commission may study the uses of the Cape Fear River Basin, including increased economic development, the use of hydroelectric power, recreational uses, and improving water quality for citizens of southeastern North Carolina.

Sec. 2.7. Workers' Compensation (S.J.R. 996 - Kerr). The Legislative Research Commission may study the effect of the assigned risk pool on small employers, the funding mechanisms of the Industrial Commission, workers' compensation premium tax, or any other matter raised by the Chairman or Advisory Panel of the Industrial Commission; provided, however, the Legislative Research Commission shall not study any matter contained in the original or any subsequent version of Senate Bill 906, the legislation that led to the Workers' Compensation Reform Act of 1994. The Commission may also study the issue of funding of workers' compensation for volunteer fire department and rescue squad members.

Sec. 2.8. Committee Membership. For each Legislative Research Commission committee created during the 1995-96 biennium, the cochairs of the Legislative Research Commission shall appoint the committee membership.

Sec. 2.9. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1996 Regular Session of the 1995 General Assembly, if approved by the cochairs, or the 1997 General Assembly, or both.



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RALEIGH, N. C. 27611

JIM LONG

COMMISSIONER OF INSURANCE

MANUFACTURED HOUSING DIVISION

(919) 733-3901

MEMORANDUM

January 18, 1996

TO: LRC Study Committee on Consumer Protection Issues

FROM: C. Patrick Walker, P.E.
Deputy Commissioner
Manufacturer Building Division
N.C. Department of Insurance

RE: Meeting - January 18, 1996

UNVENTED GAS HEATERS IN MANUFACTURED HOMES

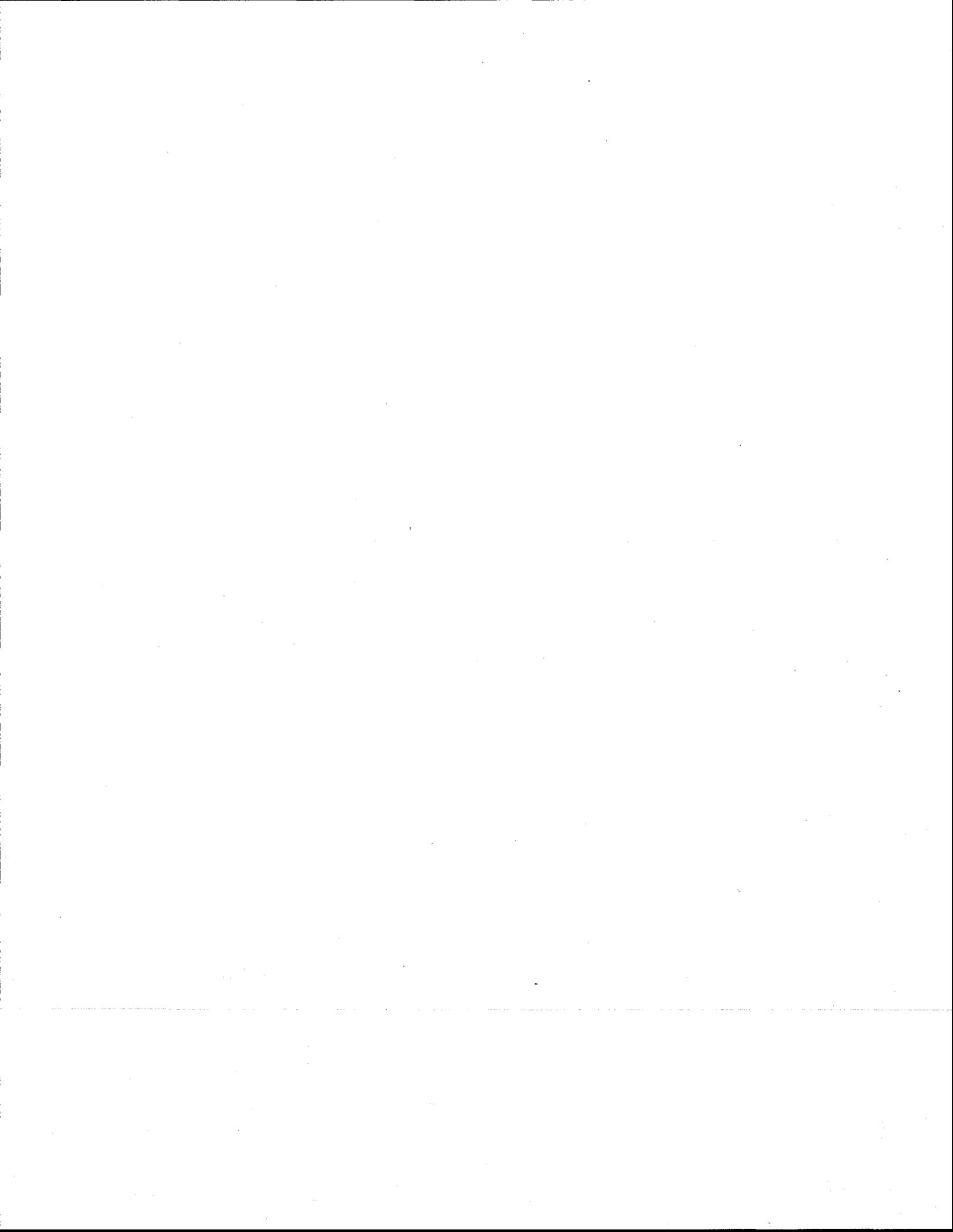
N.C. Department of Insurance current ruling is that Unvented Gas Heaters are not permitted in manufactured homes.

Manufactured (mobile) homes are constructed in accordance with the Manufactured Home Construction and Safety Standards - A federal construction code administered by HUD.

North Carolina's ruling is based on Section 3280.707 (b) of the Manufactured Home Construction and Safety Standards which states: "Fuel-burning heat-producing appliances and refrigeration appliances, except ranges and ovens, shall be of the vented type and vented to the outside."

Since the current federal construction standards for new manufactured homes will not permit the installation of unvented gas appliances, the Department of Insurance has ruled that it is also not permissible to install unvented gas appliances in older manufactured homes in the aftermarket.





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Montgomery, AL 36104
Tel. (334) 242-5649
FAX (334) 240-3255

-or-

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§ 9-17-120. Definitions.

For the purposes of this article, the following words shall have the following meanings:

(1) **LP Gas.** Liquefied petroleum gas as defined in Section 9-17-100.

(2) **Used Manufactured Home.** A manufactured home which is not being sold or offered for sale as new, and is used for residential purposes.

§ 9-17-121. Installation of heaters - residences.

The following LP-Gas room heaters may be installed in a residence that is a one- or two-family dwelling and that is not a manufactured home (mobile home) or a modular home as provided in this section:

(1) One listed wall-mounted LP-Gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bathroom of a residential one- or two-family dwelling provided that the input rating shall not exceed 6000 BTU per hour and combustion and ventilation air is provided in accordance with paragraph 6.1(b) of the National Fuel Gas Code, NFPA 54.

(2) One listed wall-mounted LP-Gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bedroom of a residential one- or two-family dwelling provided that the input rating shall not exceed 10,000 BTU per hour and combustion and ventilation air is provided as specified in paragraph 6.1(b) of the National Fuel Gas Code, NFPA 54.

§ 9-17-122. Installation of heaters - used manufactured homes.

The following LP-Gas room heaters may be installed in a used manufactured home as follows:

LP-Gas listed vented room heaters equipped with a 100 percent safety pilot and a vent spill switch or LP-Gas listed unvented room heaters equipped with factory equipped oxygen depletion safety shut-off systems may be installed in a used stationary manufactured home (mobile home) but not in sleeping quarters or bathrooms in the manufactured home (mobile home) when the installation of the heater is not prohibited by the appliance manufacturer and when the input rating of the room heater does not exceed 20 BTU per hour per cubic foot of space and combustion and ventilation air is provided as specified in Section 5.3 of the National Fuel Gas Code, NFPA 54. All room heaters installed pursuant to this section shall be securely anchored to the wall or floor.

§ 9-17-123. Enforcement.

This article shall be enforced by the Liquefied Petroleum Gas Board.

§ 9-17-124. Reference to National Fuel Gas Code.

Any reference to the National Fuel Gas Code, NFPA 54, shall include any future changes to the code when adopted by the Liquefied Petroleum Gas Board.

§ 9-17-125. Preemption of local law.

This article shall preempt any local law or any ordinance or authority of any local governing body to regulate the subject matter of this article and no local law or ordinance or authority of any local governing body shall supersede this article.

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RULES OF THE
DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES

DIVISION OF STANDARDS
CHAPTER 5F-11
LIQUEFIED PETROLEUM GAS INSPECTION

PART I - GENERAL

5F-11.001 Definitions.

(1) Unless otherwise expressly stated, the term "approved" shall, for the purpose of these rules and regulations, mean accepted by the Bureau of Liquefied Petroleum Gas Inspection by reason of test, listing or approval by Underwriters' Laboratories, Inc., the American Gas Association Laboratories, Canadian Gas Association, or other nationally recognized testing laboratory.

(2) "Nationally recognized testing laboratory" means a facility which:

(a) Is regularly engaged in the examination, testing and evaluation of the type of product, equipment or material required to be tested under the applicable statute or regulation;

(b) Has established test standards with regard to the type product, equipment or material required to be tested;

(c) Has an established program for periodic inspection of factory production procedure, including quality control; and

(d) Operates independently of control or influence of producers, suppliers, or vendors, of the product, equipment or material being tested under the applicable statute or regulation.

Specific Authority 527.06 FS. Law Implemented 527.06 FS. History - New 8-7-80, Amended 7-18-85, Formerly 4B-1.21, Formerly 4B-1.021. Amended 3/15/94; amended 7/20/95.

5F-11.002 Standards of National Fire Protection Association Adopted.

(1) The standards of the National Fire Protection Association for the storage and handling of liquefied petroleum gases as published in NFPA No. 58, Standard for the Storage and Handling of Liquefied Petroleum Gases, 1995 edition, and for gas appliances and gas piping as published in NFPA No. 54, American National Standard National Fuel Gas Code, 1992 edition, shall be the accepted standards for this state, subject to such additions and exceptions as are set forth in these rules. Reference to NFPA 58 and NFPA 54 in these rules shall be to the most recent edition as adopted herein.

(2) Each of the NFPA publications listed in subsection (1) above is incorporated by reference in each rule within this rule chapter in which reference is made to the publication. In each instance, the publication becomes a part of the rule, in the entirety of the publication, or in part thereof, as the rule provides or the context of the rule may require.

(3) "NFPA" is the recognized abbreviation for the National Fire Protection Association, Inc., and generally the abbreviation is used in these rules in identifying the publications of the association. The public may obtain a copy of any NFPA publication by writing the association, whose address is: National Fire Protection Association, Inc., Batterymarch Park, Quincy, Massachusetts 02269.

Specific Authority 527.06 FS. Law Implemented 527.06 FS. History - New 8-7-80, Formerly 4A-1.01, Amended 7-18-85, Formerly 4B-1.01, Amended 10-8-86, 2-6-90, 8-9-92, Formerly 4B-1.001; amended 7/20/95.

5F-11.003 Incorporation of Publications by Reference. Repealed 7/20/95.

Specific Authority 527.06 FS. Law Implemented 527.06(2) FS. History - New 8-7-80, Amended 7-18-85, Formerly 4B-1.23, Amended 10-8-86, 2-6-90, 8/9/92, 8/11/93. Formerly 4B-1.023. Repealed 7/20/95.

5F-11.004 Bureau of Liquefied Petroleum Gas Inspection Forms.

(1) The following Bureau of Liquefied Petroleum Gas Inspection forms are adopted and incorporated herein by reference:

FLORIDA

2-6 Appliances.**2-6.1 Approved Appliances.**

2-6.1.1 This section includes basic construction and performance provisions for LP-Gas consuming appliances.

2-6.1.2 New residential, commercial, and industrial LP-Gas consuming appliances shall be approved.

Exception: For an appliance, class of appliance, or appliance accessory for which no applicable standard has been developed, approval of the authority having jurisdiction shall be permitted to be required before installation is made.

2-6.2 Provisions for Appliances.

2-6.2.1 Any appliance originally manufactured for operation with a gaseous fuel other than LP-Gas and in good condition shall be permitted to be used with LP-Gas provided it is properly converted, adapted, and tested for performance with LP-Gas before being placed into use.

2-6.2.2 Unattended heaters used inside buildings for animal or poultry production or care shall be equipped with approved automatic devices to shut off the flow of gas to the main burners, and pilots if used, in the event of flame extinguishment or combustion failure.

Exception: Heaters as provided in 3-5.1.3.

2-6.2.3 Appliances using vaporizing-burners shall comply with 2-5.4.7.

2-6.2.4 Appliances used in mobile homes and recreational vehicles shall be approved for such service.



1995 Edition

GEORGIA

* (3) As a modification to NFPA 54 and NFPA 58:

(a) Notwithstanding anything to the contrary contained in the codes adopted hereunder or any other directive, regulation, or suggestion, vented space heaters equipped with 100% safety pilots, or unvented space heaters, factory equipped with oxygen depletion sensor pilots (ods), may be installed in sleeping quarters or bathrooms of residences other than manufactured houses (mobile homes) provided the aggregate input BTU rating of such appliances located in any such room does not exceed 20 BTU's per hour per cubic foot of space and the required clearances are maintained, and the heater is securely anchored to the wall or floor.

(b) Notwithstanding anything to the contrary contained in the codes adopted hereunder or any other directive, regulation, or suggestion, vented space heaters equipped with 100% safety pilots, or unvented space heaters, factory equipped with oxygen depletion sensor pilots (ods), may be installed in used stationary manufactured houses (mobile homes) but not in sleeping quarters or bathrooms in such manufactured houses (mobile homes) provided the aggregate input BTU rating of such appliance or appliances installed does not exceed 20 BTU's per hour per cubic foot of space and the required clearances are maintained, and the heater is securely anchored to the wall or floor. Note: A used manufactured house is one that is owned or occupied by the consumer.

120-3-16-.08 Request for Modification of Specific Requirements

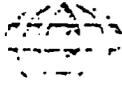
Upon receipt of a sworn affidavit from the owner stating all relevant facts and circumstances and such other information as may be required, the State Fire Marshal may determine that specific requirements of this Chapter and the NFPA codes and standards adopted herein should be modified to allow alternative arrangements that will secure as nearly equivalent measures as practical for the prevention of injury to persons and property. In their discretion, the Georgia Safety Fire Commissioner and the State Fire Marshal may jointly grant the requested modification.

120-3-16-.09 Compliance with Rules and Regulations; Penalties

All persons shall manufacture, distribute, sell, store, transport, use and otherwise handle liquefied petroleum gases in conformity with this Chapter. After notice and hearing provided in accordance with Rule 120-3-2-.02 of the Rules of Safety Fire Commissioner, or as provided in O.C.G.A. §10-1-269, any person who is found to have violated any of the rules contained in this Chapter shall be subject to such penalties as authorized by O.C.G.A. Chapters 25-2 and 10-1.

120-2-16-.10 Severability

If any rule or portion thereof contained in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules here in and the applicability of such provisions to other circumstances shall not be affected



INTERNATIONAL APPROVAL SERVICES

A JOINT VENTURE OF A.G.A. LABORATORIES AND CGA APPROVALS, INC.

2501 East Pleasant Valley Rd. • Cleveland, Ohio, U.S.A. 44131-5575 • Phone: (216) 524-4990 • Fax: (216) 612-3161

November 17, 1994

Robert Bailey
President
New Buck Corporation
1265 Bakersville, Hwy.
Spruce Pine, NC 28777

REF: REVIEW OF REQUEST TO INDICATE ON RATING PLATE THAT NEW BUCK UNVENTED HEATERS MAY BE INSTALLED IN AFTERMARKET MANUFACTURED (MOBILE) HOMES.

Mr. Bailey,

This letter is in response to your request to be allowed to indicate on your A.G.A. certified unvented room heaters that these appliances may be installed in aftermarket manufactured (mobile) homes.

This request has been reviewed and is now granted. Please resubmit your A.G.A. unvented gas-fired room heater rating plates and operating manuals for our final review after including the following:

Rating Plate:

MAY BE INSTALLED IN AN AFTERMARKET MANUFACTURED (MOBILE) HOME. SEE OWNER'S MANUAL FOR DETAILS.

THIS APPLIANCE IS ONLY FOR USE WITH THE TYPE OF GAS INDICATED ON THIS RATING PLATE. THIS APPLIANCE IS NOT CONVERTIBLE FOR USE WITH OTHER GASES.

Operating Manual:

THIS APPLIANCE MAY BE INSTALLED IN AN AFTERMARKET MANUFACTURED (MOBILE) HOME, WHERE NOT PROHIBITED BY STATE OR LOCAL CODES.

*Aftermarket: Completion of sale, not for purpose of resale, from the manufacturer.

THIS APPLIANCE IS ONLY FOR USE WITH THE TYPE OF GAS INDICATED ON THE RATING PLATE. THIS APPLIANCE IS NOT CONVERTIBLE FOR USE WITH OTHER GASES.

Sincerely,

STEVEN E. KAZUBSKI
Project Manager, Appliance Certification
A.G.A.L. / International Approval Services



INTERNATIONAL APPROVAL SERVICES

A JOINT VENTURE OF A.G.A. LABORATORIES AND CGA APPROVALS, INC.

8501 East Pleasant Valley Rd. • Cleveland, Ohio, U.S.A. 44131-5575 • Phone: (216) 524-4990 • Fax: (216) 642-3463

October 20, 1994

Robert Bailey
President
New Buck Corporation
1265 Bakersville, Hwy.
Spruce Pine, NC 28777

REF: CERTIFIED UNVENTED ROOM HEATER INSTALLATIONS NOT
PROHIBITED IN AFTERMARKET MANUFACTURED (MOBILE) HOMES.

Mr. Bailey,

At present our Laboratories' position of A.G.A. certified gas-fired unvented room heaters being installed in aftermarket¹ manufactured (mobile) homes is as follows:

There is presently no federal regulation prohibiting the sale and installation of certified gas-fired unvented room heaters into aftermarket manufactured (mobile) homes. An add-on to an aftermarket manufactured (mobile) home (as stated in CFR² Title 24, Part 3292, Sections 8[j] and 252[b]&[c]) is not regulated by HUD's³ manufactured home regulations found in CFR Title 24, Parts 3280 and 3282. Also, the ANST⁴ Z21.11.2 Standard, for which our Laboratories certifies gas-fired unvented room heaters, does not prohibit the installation of these appliances into mobile (manufactured) homes. Hence, the sale and installation of certified gas-fired unvented room heaters for use in aftermarket manufactured (mobile) homes is allowed where the appliance or its installation is not prohibited by state or local codes.

A certified gas-fired unvented heaters should be installed as stated in the appliance's installation/operation manual. The installation should conform with local codes or, in the absence of local codes, the National Fuel Gas Code, ANSI Z223.1 .

Sincerely,

STEVEN E. KAZUBSKI
Project Manager, Appliance Certification
A.G.A.L. / International Approval Services

¹Aftermarket - Completion of sale, not for purpose of resale, from the manufacturer.

²CFR - Code of Federal Regulations.

³HUD - Department of Housing and Urban Development.

⁴ANSI - American National Standards Institute.



North Carolina General Assembly

Legislative Services Office
 Legislative Office Building
 300 N. Salisbury Street, Raleigh, N. C. 27603-5925

GEORGE R. HALL, JR., Legislative Administrative Officer
 (919) 733-7044

DONALD W. FULFORD, Director
 Automated Systems Division
 Suite 400, (919) 733-6834

GERRY F. COHEN, Director
 Bill Drafting Division
 Suite 100, (919) 733-6660

THOMAS L. COVINGTON, Director
 Fiscal Research Division
 Suite 619, (919) 733-4910

TERRENCE D. SULLIVAN, Director
 Research Division
 Suite 545, (919) 733-2578

February 6, 1996

Mr. Phillip Schultz, Acting Director
 Department of Housing and Urban Development
 Manufactured Housing and Construction
 Standards Division
 Room B-133
 451 7th Street, S.W.
 Washington, D.C. 20410 (Fax: 202-755-0303)

Query: Has HUD considered or is it planning to consider amending 24 CFR 3280.707(a)(2)(b) to permit unvented gas heating appliances to be installed in newly constructed manufactured homes. If so, what is the status and result of HUD's considerations. If not, why.

Dear Mr. Schultz:

The North Carolina General Assembly's LRC Study Committee on Consumer Protection has been asked by private industry to consider a recommendation that unvented gas heaters be permitted to be installed in after-market manufactured homes. North Carolina prohibits such installation based on federal regulations governing construction standards for new manufactured homes.

The Committee is interested in knowing if HUD has considered amending regulation 24 CFR 3280.707(a)(2)(b) to permit unvented gas heating appliances to be installed in newly constructed manufactured homes. The Committee feels that reconsideration of this regulation may be warranted in light of improvements in the manufacture of these appliances and in the construction of manufactured homes that might eliminate or substantially alleviate risks underlying the HUD regulation when it was first adopted in 1974.

The Committee would greatly appreciate your response to this query as soon as possible. If you have any questions please



Mr. Phillip Schultz
Page 2 of 2
February 6, 1996

feel free to contact me at (919) 733-6660. My fax number is
(919) 715-5459.

Thank you.

Sincerely,

Gann Watson, Committee Counsel
LRC Study Committee on Consumer Protection Issues

cc: Committee Members
Mr. Jerry Glenn, New Buck Corporation
Mr. C. Patrick Walker, P.E., N.C. Department of Insurance



North Carolina General Assembly

Legislative Services Office
 Legislative Office Building
 300 N. Salisbury Street, Raleigh, N. C. 27603-5925

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 Fiscal Research Division
 Suite 619, (919) 733-4910

TERRENCE D. SULLIVAN, Director
 Research Division
 Suite 545, (919) 733-2578

February 26, 1996

MEMORANDUM

TO: Lee Hauser, Sr. Deputy Commissioner
 N.C. Department of Insurance

FROM: Gann Watson, Counsel
 LRC Consumer Protection Issues Study Committee

RE: Meeting - March 11, 1996
 Unvented Gas Heaters

This is to confirm our conversation that a representative of the Department of Insurance will attend the March 11, 1996 meeting of the General Assembly's LRC Study Committee on Consumer Protection Issues. As you know, the Committee is concerned that North Carolina prohibits the installation of unvented gas heaters in after-market mobile homes, whereas some other states do not prohibit such installation. The Committee has discussed this issue at both of its meetings. During these discussions the Committee has raised the following questions and concerns. It would be most helpful if the Department's representative could provide information and responses at the meeting on the 11th.

1. A brief explanation of the differences between a mobile home, modular home, and manufactured home.
2. According to a letter from Mr. Pat Walker, the North Carolina Department of Insurance current ruling "...is that unvented gas heaters are not permitted in manufactured homes." Is there a written, published rule stating this prohibition. If not, and there is no State law expressly prohibiting such installation, what is the Department's legal authority for the ruling.
3. If the Department's ruling is based on federal law, does the federal law prohibit the installation of unvented gas heaters in mobile homes sold in the after market.

4. Undoubtedly the Department's position is based primarily on safety concerns; please share these concerns with the Committee and include any specific risks or hazards posed to occupants of mobile homes by unvented gas heaters.
5. Has the Department recently investigated, tested, or researched the risks involved in installation of unvented gas heaters in mobile homes. If so, what is the result of the test/investigation/research. If not, is the Department willing to re-evaluate its position based on recent studies, tests, or other information available to the Department from its experts or from independent sources.
6. If a utility company in North Carolina installs in a mobile home an unvented gas heater that, according to the manufacturer, has been approved for use in mobile homes, is the company violating State law? If so, what law is being violated and what State agency would enforce it.
7. Please provide specific reasons why unvented gas heaters are permitted in stick-built homes but not in mobile homes.
8. Who in the Department has the ultimate authority to approve or prohibit the installation of unvented gas heaters in mobile homes.

Thank you for contacting me about the Committee's study of this issue. The meeting will begin at 10:00 a.m. in room 421 of the Legislative Office Building. The Committee very much appreciates the Department's assistance in this regard. If you have any questions, please feel free to contact me at 733-6660.

/gw

cc: Mr. Dascheil Propes, Assistant Commissioner
Mr. Pat Walker, Manufactured Housing
Mr. Jerry Glenn, New Buck Corporation
Rep. Gregg Thompson, Sen. Luther Jordan
Committee Co-Chairmen



U. S. Department of Housing and Urban Development
Washington, D.C. 20410-8000

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

FEB 26 1996

Gann Watson, Committee Counsel
LRC Study Committee on Consumer
Protection Issues
North Carolina General Assembly
Legislative Service Office
Legislative Office Building
300 N. Salisbury Street
Raleigh, North Carolina 27603-5925

Dear Ms. Watson:

This in reply to your letter of February 6, 1996, concerning the use of unvented gas furnaces in manufactured housing.

You have asked if the Department is considering any change in the current standard (24 CFR 3280.707) that prohibits the use of unvented gas furnaces in manufactured housing. At the present time, the Department does not intend to amend this standard.

Unvented gas heaters have been prohibited from use in manufactured housing for many years. While the safety of unvented room heaters has been improved, we remain concerned about the effect on the indoor air quality of tightly built energy efficient homes. The standard for Gas Fired Room Heaters, ANSI Z21.11.2, requires labeling concerning the need for fresh air, suggesting that these heaters are not suitable as an unattended primary heat source. Also, should the oxygen depletion safety shutoff valve malfunction, we believe it would put the home's occupants at risk. This is all further exacerbated by the small geometry of many manufactured homes.

Under 24 CFR 3280.707, certain heat producing appliances, such as ranges and ovens, are permitted to vent directly into the living space. However, these appliances are used intermittently rather than continuously as would be the case for the heating system of a house. In addition, an unvented gas heater would release a great deal of water vapor into the living space and this could exacerbate the potential for moisture build-up in the home.

Finally, if these systems were approved, an unvented system could become the primary heating appliance for a manufactured home. The recently enacted HUD ventilation standards are predicated upon a heat producing appliance that vents directly to the outside of the home. Therefore, it may be necessary to investigate changes in the manufactured home ventilation requirements if the Department were to consider the acceptance of

unvented gas heaters; these and other issues would require engineering analysis before the Department would be prepared to recommend that these devices be permitted in manufactured housing.

It should be noted that the model building codes do permit the use of unvented gas heaters in single family housing. However, local building officials can modify the model building codes to suit local conditions or climate; the HUD code for manufactured housing is preemptive and therefore it may not be modified. Therefore, the Department must develop safety standards that would protect homeowners regardless of the local climate or conditions.

As administrator of the manufactured housing program, the Department periodically develops changes to the standards based on changes in technology and for other reasons. Also, the Department is supporting the establishment of a consensus standards making process with participation by consumers, industry, and our State partners. Original equipment manufacturers and the general public will be permitted to suggest possible changes in the standards. We suggest that original equipment manufacturers contact the Council of American Building Officials (CABO) concerning the manufactured housing consensus committee that has been recently formed.

The Department has no authority over the manufactured home after it is sold to the consumer and therefore, we do not have any jurisdiction over "after-market products." Consequently, State law would govern the placement of unvented gas heaters in sold manufactured homes. If you have any questions about this matter, please contact me at (202) 755-7420.

Sincerely,



Emelda P. Johnson
Deputy Assistant Secretary
for Single Family Housing



DEPARTMENT OF INSURANCE
State of North Carolina

P. O. BOX 26387

RALEIGH, N. C. 27611

JIM LONG
 COMMISSIONER OF INSURANCE

MANUFACTURED BUILDING DIVISION
 (919) 733-3901

MEMORANDUM

March 11, 1996

TO: LRC Study Committee on Consumer Protection Issues

FROM: C. Patrick Walker, P.E.
 Deputy Commissioner
 Manufacturer Building Division
 N.C. Department of Insurance

RE: Meeting - March 11, 1996

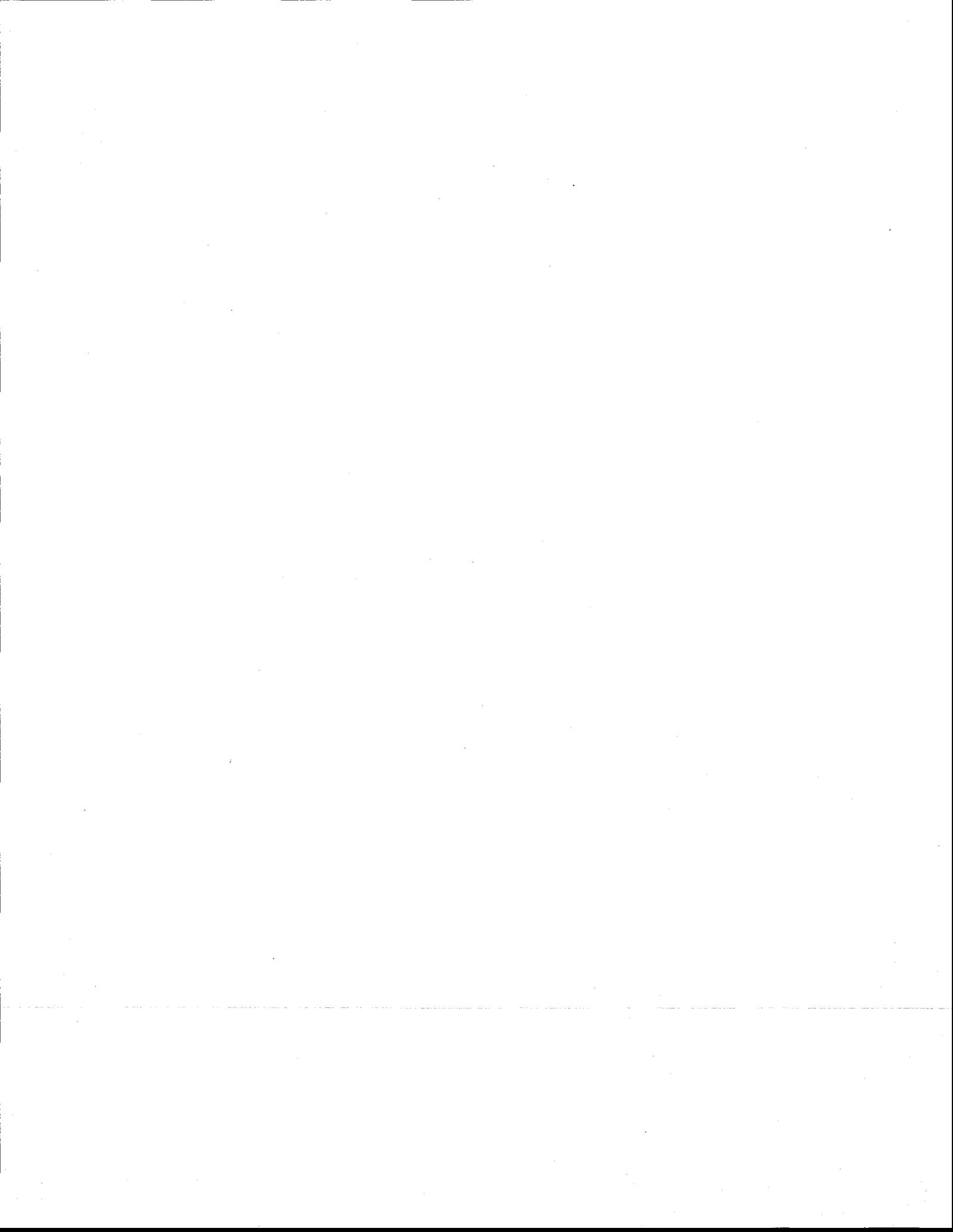
UNVENTED GAS HEATERS IN MANUFACTURED HOMES

Requested and received a response from HUD regarding the installation of Unvented Gas Heaters in New manufactured homes. They still do not permit this type of construction.

Department of Insurance has decided to permit Unvented Gas Heaters to be used in the manufactured housing aftermarket in accordance with the following:

1. Add these new requirements to our Manufacturing Housing Code.
2. Unvented gas heaters would not be permitted in Bedrooms and Bathrooms.
3. Unvented gas heaters must be listed and labeled for installation in Manufactured Homes.
4. Unvented gas heaters must be installed in accordance with it's listing and the manufacturer's installation instructions.
5. Unvented gas heaters must be sized based upon the heat loss of the space to be heated.





GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

1

SENATE BILL 593

Short Title: Funeral Contract Investments.

(Public)

Sponsors: Senators Conder, Plyler, and Kincaid.

Referred to: Pensions and Retirement/Insurance/State Personnel

April 6, 1995

1 A BILL TO BE ENTITLED
 2 AN ACT TO ALLOW ALTERNATIVE INVESTMENTS OF IRREVOCABLE
 3 PRENEED FUNERAL CONTRACT FUNDS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 90-210.61(d) reads as rewritten:

6 "(d) Funds deposited in trust under a revocable standard preneed funeral contract
 7 may, with the written permission of the preneed funeral contract purchaser, be
 8 withdrawn by the trustee and used to purchase a prearrangement insurance policy.

9 Funds deposited in trust under an irrevocable preneed funeral contract may, with the
 10 written permission of the preneed funeral contract purchaser, be transferred by the
 11 trustee for the purchase of a prearrangement insurance policy; provided that the
 12 prearrangement insurance policy coverage is greater than or equal to the amount of
 13 the transferred funds and that, within 30 days after the transfer, the preneed licensee

14 pays to the Board a fee not to exceed two dollars (\$2.00) and provides the Board and
 15 the preneed funeral contract purchaser with evidence of the purchase of the
 16 prearrangement insurance policy and with the name and address of the transferee

17 insurance company. The prearrangement insurance policy must be a single premium
 18 prearrangement insurance policy. The Commissioner of Insurance and the N.C.

19 Board of Mortuary Science shall adopt guidelines to be followed in ensuring that the
 20 consumers are properly informed and protected. Except as provided in this
 21 subsection, no funds deposited in trust in a financial institution pursuant to this
 22 Article shall be withdrawn by the trustee to purchase a prearrangement insurance
 23 policy."

24 Sec. 2. This act becomes effective October 1, 1995.

Am.
#3Am.
#2Am.
#1 →

H. B. No. _____

DATE May 10, 1995

S. B. No. 593

Amendment No. 1 (one)

(a)

(to be filled in by
Principal Clerk)

Rep.)
) McDaniel
Sen.)

moves to amend the bill on page 1, line 16

by adding a new sentence after the word "company," as follows:

"The prearrangement insurance policy must be a single premium prearrangement insurance policy."

SIGNED

[Handwritten signature]

ADOPTED BY THE COMMITTEE ON PENSIONS & RETIREMENT/INSURANCE/STATE PERSONNEL

ADOPTED 5-11-95 FAILED _____ TABLED _____

(V) *[Handwritten signature]*

H. B. No. _____

DATE May 10, 1995

S. B. No. 593
(b)

Amendment No. 2 (two)
(to be filled in by
Principal Clerk)

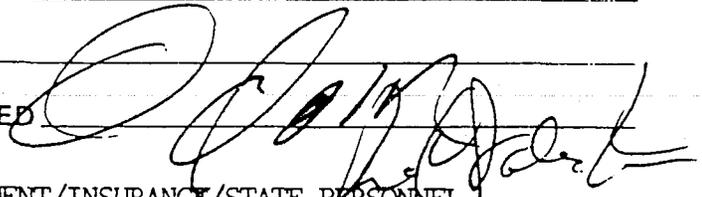
Rep.) _____
) Odom
Sen.) _____

moves to amend the bill on page 1, line _____

by adding after Amendment #1 the following:

"The Commissioner of Insurance and the N.C. Board of Mortuary Science shall adopt
guidelines to be followed in ensuring that the consumers are properly informed
and protected."

SIGNED



ADOPTED BY THE COMMITTEE ON PENSIONS & RETIREMENT/INSURANCE/STATE PERSONNEL

ADOPTED 5-11-95 FAILED _____ TABLED _____

(V)

L. Hink

EDITION No. _____

H. B. No. _____

S. B. No. 593

COMMITTEE SUBSTITUTE _____

DATE 5/11/95

Amendment No. 3 (three)
(to be filled in by
Principal Clerk)

Rep.) _____
Sen.) Corder

1 moves to amend the bill on page 1, line 14

2 () WHICH CHANGES THE TITLE

3 by inserting before the word "provides",
4 the following phrase to read:

5 _____
6 ~~"~~ " pays to the Board a fee
7 not to exceed two dollars (\$2.00) and "

8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____

SIGNED Corder

ADOPTED 5-11-95 FAILED _____ TABLED _____
(44-2) J. Kirk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

SENATE BILL 593
PROPOSED COMMITTEE SUBSTITUTE

Short Title: Funeral Contract Investments (Public)

Sponsors: Senators Conder, Plyler, and Kincaid

Referred to: Pensions and Retirement/Insurance/State Personnel

April 6, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE ALTERNATIVE INVESTMENTS OF IRREVOCABLE PRENEED
3 FUNERAL CONTRACT FUNDS.

4 The General Assembly of North Carolina Enacts:

5 Section 1. G.S. 90-210.61(d) reads as rewritten:

6 § 90-210.61. Deposit or application of preneed funeral funds.

7 "(d) Funds deposited in trust under a revocable standard
8 preneed funeral contract may, with the written permission of the
9 preneed funeral contract purchaser, be withdrawn by the trustee and
10 used to purchase a prearrangement insurance policy. Except as
11 provided in this subsection, and subsection (d1), no funds
12 deposited in trust in a financial institution pursuant to this
13 Article shall be withdrawn by the trustee to purchase a
14 prearrangement insurance policy."

15 Section 1. G.S. 90-210.61 is amended to add a new subsection
16 (d1) to read as follows:

17 § 90-210.61. Deposit or application of preneed funeral funds.

18 "(d1) Funds deposited in trust under an irrevocable preneed
19 funeral contract may, with the written permission of the preneed
20 funeral contract purchaser, be transferred by the trustee for the
21 purchase of a prearrangement insurance policy, subject to the
22 following: (i) any amount that had been previously retained by the
23 preneed licensee pursuant to subdivision (a)(2) of this section
24 must be applied with the transferred funds as paid premiums for the
25 purchase of a prearrangement insurance policy; (ii) the
26 prearrangement insurance policy must be a single premium
27 prearrangement insurance policy whose coverage is greater than or
28 equal to the amount of the transferred funds; (iii) within 30 days
29 after the transfer, the preneed licensee shall pay to the Board a
30 fee not to exceed \$2.00 and shall provide the Board and the preneed
31 funeral contract purchaser with evidence of the purchase of the
32 prearrangement insurance policy and with the name and address of
33 the transferee insurance company; and (iv) if the proceeds of the

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

1 prearrangement insurance policy are greater than the cost of
2 performing the preneed funeral contract as determined on the date
3 of the death of the funeral contract beneficiary's death, a refund
4 of the difference will be paid to the estate of the preneed funeral
5 contract beneficiary or to the prearrangement insurance beneficiary
6 named to receive any such balance but in no event shall any excess
7 balance be retained by the preneed licensee. The Commissioner of
8 Insurance and the Board of Mortuary Science shall adopt guidelines
9 to be followed in ensuring that the consumers are properly informed
10 and protected.

11 Section 3. This Act becomes effective October 1, 1995.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S/H

D

95-LN-CPSC

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Funeral Contract Investments.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW ALTERNATIVE INVESTMENTS OF IRREVOCABLE PRENEED
3 FUNERAL CONTRACT FUNDS.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 90-210.61(d) reads as rewritten:
6 "(d) Funds deposited in trust under a revocable standard
7 preneed funeral contract may, with the written permission of the
8 preneed funeral contract purchaser, be withdrawn by the trustee
9 and used to purchase a prearrangement insurance policy. Except
10 as provided in this ~~subsection~~, subsection and subsection (d1) of
11 this section, no funds deposited in trust in a financial
12 institution pursuant to this Article shall be withdrawn by the
13 trustee to purchase a prearrangement insurance policy."
14 Sec. 2. G.S. 90-210.61 is amended by adding the
15 following new subsection to read:
16 "(d1) Funds deposited in trust under an irrevocable preneed
17 funeral contract may, with the written permission of the preneed
18 funeral contract purchaser, be transferred by the trustee for the
19 purchase of a prearrangement insurance policy, subject to all of
20 the following:
21 (1) Any amount that has been previously retained by the
22 preneed licensee pursuant to subsection (a)(2) of
23 this section shall be applied with the transferred

- 1 funds as paid premiums for the purchase of a
2 prearrangement insurance policy;
3 (2) The prearrangement insurance policy shall be a
4 single premium prearrangement insurance policy
5 whose coverage is greater than or equal to the
6 amount of the transferred funds;
7 (3) Within 30 days after the transfer, the preneed
8 licensee shall pay to the Board a fee not to exceed
9 two dollars (\$2.00) and shall provide to the Board
10 and to the preneed funeral contract purchaser
11 evidence of the purchase of the prearrangement
12 insurance policy and shall also provide the name
13 and address of the transferee insurance company;
14 and
15 (4) If the proceeds of the prearrangement insurance
16 policy are greater than the cost of performing the
17 preneed funeral contract as determined on the date
18 of the funeral contract beneficiary's death, a
19 refund of the difference shall be paid to the
20 estate of the preneed funeral contract beneficiary
21 or to the prearrangement insurance beneficiary
22 named to receive any such balance, but in no event
23 shall any excess balance be retained by the preneed
24 licensee.

25 The Commissioner of Insurance and the N.C. Board of Mortuary
26 Science shall adopt guidelines to be followed by preneed
27 licensees to ensure that the consumers are properly informed and
28 protected. The guidelines shall include but not be limited to
29 provisions to ensure that if preneed funeral funds are
30 transferred to purchase a prearrangement insurance policy the
31 contract purchaser is not placed in a significantly worse
32 financial position with respect to preneed funeral funds
33 available at the time of death than the purchaser would be if the
34 funds remained in a trust account.

35 Sec. 3. The Commissioner of Insurance and the Board of
36 Mortuary Science shall ensure that the guidelines required to be
37 adopted under this act are adopted and available for the
38 information and protection of consumers no later than the
39 effective date of this act..

40 Sec. 4. This act becomes effective October 1, 1996.

41
42

LRC STUDY COMMITTEE ON CONSUMER PROTECTION ISSUES

SUMMARY

LEGISLATIVE PROPOSAL

AN ACT TO ALLOW ALTERNATIVE INVESTMENTS
OF IRREVOCABLE PRENEED FUNERAL CONTRACT FUNDS

This bill amends the Funeral and Burial Trust Funds law, Article 13D of Chapter 90 of the General Statutes. Under G.S. 90-210.61, preneed funeral contract funds may be invested in a prearrangement insurance policy if the contract purchaser consents in writing and the funds are held pursuant to a revocable preneed contract; such investment may not be made if the funds are held pursuant to an irrevocable preneed contract.

Section 1: Amends G.S. 90-210.61(d) to conform to newly added subsection (d1).

Section 2: Amends G.S. 90-210.61 to add new subsection (d1) authorizing a preneed funeral licensee to transfer funds deposited under an irrevocable preneed funeral contract for the purchase of a prearrangement insurance policy, the proceeds of which would be used to pay the costs of performing the contract. The transfer may only be made with the written consent of the contract purchaser. The authorizing language makes the transfer subject to the following conditions:

- (1) Any amount lawfully retained by the licensee (pursuant to G.S. 90-210.61(a)(2)) must be applied with the transferred funds as paid premiums against the prearrangement policy purchased, and
- (2) Prearrangement policy must be single-premium policy, and
- (3) Licensee must provide proof of purchase of the policy to the contract purchaser and to the Board of Mortuary Science within 30 days of the transfer of funds; licensee must also provide to contract purchaser and Board of Mortuary Science the name and address of the insurance company, and

- (4) If the proceeds from the prearrangement policy exceed the amount necessary to cover the cost of full performance of the contract at the time of the contract purchaser's death, then the excess must be refunded to the contract purchaser's estate or named beneficiary, and
- (5) In no event may the excess realized be retained by the preneed licensee.

Commissioner of Insurance and Board of Mortuary Science must adopt guidelines to ensure that consumers are properly informed and protected. Guidelines must include provisions that ensure that if preneed funds are transferred to purchase a prearrangement insurance policy, the contract purchaser is not placed in a significantly worse financial position with respect to preneed funeral funds available at the time of death than the purchaser would be if the funds remained in a trust account.

Section 3. Guidelines developed by Commissioner of Insurance and Board of Mortuary Science must be adopted and available to the public on the date the act becomes effective.

Section 4. Act becomes effective October 1, 1996.

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